

A Regular Meeting of the Zoning Board of Appeals of the Town of Lancaster, Erie County, New York, was held at the Lancaster Town Hall, 21 Central Avenue, Lancaster, New York, on the 11th day of March at 8:00 P.M., and there were

PRESENT: DARLENE HUMPHREY, MEMBER
 JAMES PERRY, MEMBER
 LAWRENCE PIGNATARO, MEMBER
 RICHARD QUINN, MEMBER
 ARLIE SCHWAN, MEMBER
 ROBERT THILL, MEMBER
 JEFFREY LEHRBACH, CHAIRMAN

ABSENT: NONE

ALSO PRESENT: JOHANNA M. COLEMAN, TOWN CLERK
 JEFFREY SIMME, CODE ENFORCEMENT OFFICER
 JOHN DUDZIAK, ESQ., TOWN ATTORNEY
 DANIEL SPITZER, ESQ., HODGSON RUSS LLP

The Affidavits of Publication and Posting of this Public Hearing are on file and a copy of the Legal Notice has been posted.

PETITION OF ARTHUR J. GIACALONE:

THE CASE CONSIDERED BY THE ZONING Board of Appeals was a **NOTICE OF APPEAL TO THE ZONING BOARD of APPEALS for an interpretation concerning the zoning status of the Buffalo-Lancaster Airport, 4343 Walden Avenue, Lancaster, New York.**

The petition of Arthur J. Giacalone, 140 Knox Road, East Aurora, New York 14052, on behalf of the Safe Aviation Coalition of Lancaster [SACL], represented by David and Carmen Hangauer, 166 Nichter Road, Lancaster, New York 14086 and Kevin and Deborah Lemaster, 720 Schwartz Road, Lancaster, New York 14086, calling upon the Zoning Board of Appeals for an interpretation concerning the zoning status of the Buffalo-Lancaster Airport located at 4343 Walden Avenue, Lancaster, New York 14086.

Pursuant to Chapter 50, Zoning, Section 45.C(1) of the Code of the Town of Lancaster and Section 267-a(4) of New York State Town Law, the Board shall hear and decide appeals where it is alleged that there is an error or misinterpretation in any order, requirement, decision or determination by any administrative official of the Town charged with the enforcement of the provisions of this ordinance or other regulations adopted pursuant to the Town Law. The Board may reverse, modify or affirm, in whole or in part, any such appealed order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as in its opinion ought to be made in strictly applying and interpreting the provisions of this ordinance, and for such purposes shall have all the powers of the officer from whom the appeal is taken.

The petitioner hereby appeals to the Zoning Board of Appeals of the Town of Lancaster for an interpretation of the Zoning status of the Buffalo-Lancaster Airport, pursuant to the authority granted in Chapter 50, Zoning, Section 45.C(1) of the Code of the Town of Lancaster and Section 267-a(4) of New York State Town Law.

The Clerk presented and entered into evidence the following items:

Duly executed petition of the applicant with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioner of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of the subject property of the time and place of this public hearing.

AT 8:03 P.M., UPON A MOTION DULY MADE BY CHAIRMAN LEHRBACH, SECONDED BY MR. PIGNATARO, for a temporary adjournment for the purpose of consulting legal counsel.

The question was put to a vote on roll call which resulted as follows:

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| MS. HUMPHREY | VOTED YES |
| MR. PERRY | VOTED YES |
| MR. PIGNATARO | VOTED YES |
| MR. QUINN | VOTED YES |
| MR. SCHWAN | VOTED YES |
| MR. THILL | VOTED NO |
| MR. LEHRBACH | VOTED YES |

AT 8:31 P.M., the entire Board reconvened with all members present. The public was given the opportunity to address the Board, limiting their comments to the following questions:

- Is the Buffalo-Lancaster Airport a non-conforming use?
- If the Buffalo-Lancaster Airport is a non-conforming use, has it expanded beyond the 25% expansion allowed for non-conforming uses?
- Are the clients of Mr. Giacalone aggrieved parties?
- Is this petition a request for an advisory opinion?
- If this petition is a request for an advisory opinion, does the Zoning Board of Appeals have authority to hear it?

PERSONS ADDRESSING THE BOARD

Arthur Giacalone, Esq., Representing Hangauers and Lemasters spoke to the Zoning Board of Appeals on the following matters:

- Response to the questions of the members of the Zoning Board of Appeals.
- Mr. Giacalone presented to the Town Clerk the following items for entry into the record:
 1. His original letter to the Town Clerk dated March 11, 2010.
 2. Numerous copies of real estate deeds related to the Buffalo-Lancaster Airport.
 3. A query of the Erie County GIS System related to property at 4343 Walden Avenue, Lancaster, New York.
 4. A nine page string of emails between Arthur Giacalone and the Town of Lancaster's legal counsel.
 5. Letter dated February 18, 2005 from Jeffrey Simme, Town of Lancaster Building and Zoning Inspector, to Andrew Yusick, Harris Beach LLP.
 6. Copy of an equalization and assessment form completed by Lancaster Airport, Inc., dated January 29, 2007.

David Hangauer, spoke to the Zoning Board of Appeals on the following matter:

- His perception of the noise and frequency of flights from Buffalo-Lancaster Airport. He expressed his opinion that trains are not noisy or a problem.
- Stated that he moved to current home on Nichter Road in November 2008. He claims that he has to leave neighborhood when planes are flying.

Carmen Hangauer, spoke to the Zoning Board of Appeals on the following matter:

- She has been forced to leave her home one hundred times due to noise from the aircraft.

Kevin Lemaster, spoke to the Zoning Board of Appeals on the following matter:

- He claims aircraft traffic has increased over the past year.

Larry Boylan, Esq., Representing Buffalo-Lancaster Airport.

- Responded to questions of the Zoning Board of Appeals members regarding the petition of the Buffalo-Lancaster Airport.
- The Town Clerk entered into the record a letter addressed to and sent by facsimile to the Building Inspector on March 11, 2010 from Lawrence Boylan, Esq.

Kathleen Wahl, spoke to the Zoning Board of Appeals on the following matter:

- The increased air traffic in the last year.

Al Huber, spoke to the Zoning Board of Appeals on the following matter:

- Increased air traffic in the past year.

Robert Zichittella, spoke to the Zoning Board of Appeals on the following matter:

- Lower airplane altitude and increased air traffic in the past year.

Mike Fronczak - Did not speak on the question.

Roy Berube - Did not speak on the question.

IN THE MATTER OF THE PETITION OF ARTHUR J. GIACALONE

THE FOLLOWING RESOLUTION WAS OFFERED
BY MR. THILL, WHO MOVED ITS
ADOPTION, SECONDED BY MR. PIGNATARO
TO WIT:

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Arthur J. Giacalone and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 11th day of March 2010, and having heard parties interested who were in attendance regarding said application pursuant to legal notice duly published and posted, and

WHEREAS, the Zoning Board of Appeals has requested further information and evidence from the petitioner and from principal parties of the Buffalo-Lancaster Airport;

NOW, THEREFORE, BE IT

RESOLVED that the hearing be adjourned to May 13, 2010 at 8:00 P.M. for further testimony and evidence.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

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| MS. HUMPHREY | VOTED YES |
| MR. PERRY | VOTED YES |
| MR. PIGNATARO | VOTED YES |
| MR. QUINN | VOTED YES |

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| MR. SCHWAN | VOTED YES |
| MR. THILL | VOTED YES |
| MR. LEHRBACH | VOTED YES |

The resolution was thereupon ADOPTED.

March 11, 2010

ON MOTION DULY MADE, SECONDED AND CARRIED, the meeting was adjourned at 11:03 P.M.

Signed _____

Johanna M. Coleman, Town Clerk and
Clerk, Zoning Board of Appeals

Dated: March 11, 2010

